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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,230	09/26/2002	Paulette Abraham	HOME0582PUS	9431

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EXAMINER

BAHTA, ABRAHAM

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/065,230	ABRAHAM, PAULETTE	
	Examiner	Art Unit	
	Abraham Bahta	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/09/02</u> | 6) <input checked="" type="checkbox"/> Other: <u>IDS of 09/27/02</u> |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown (USP 1380633).

Brown teaches a toothbrush comprising a toothbrush body including a toothbrush handle (3) and a brush head (4) and a tubular shaped object housing attached to the toothbrush handle and the tubular shaped housing provides access into the tubular shaped housing wherein the user places a card bearing suitable characters or identification marks between the tubular shaped body (2) and the handle. See col. 2, lines 1-81 and figures 1 and 2. Brown teaches the tubular shaped housing is transparent. See col. 2, lines 91-96.

Claim 2: Brown teaches the tubular shaped body is attachable and removable from the toothbrush handle. See col. 2, lines 62-70.

Claim Rejections - 35 USC § 102

Claims 1-4 ~~and 7~~ are rejected under 35 U.S.C. 102(b) as being anticipated by WO 00/70999 herein after referred as WO '999.

WO '999 teaches a toothbrush comprising a handle and a brush head (10) and a transparent cap/cover (40) covering the brush head wherein the ca/cover has an opening for providing access into the covering. See page 4, lines 8-10 and figures 1.

Claim 2: WO '999 teaches the cap is attachable and detachable from the toothbrush head. See page 4, lines 10-17.

Claim 3: WO '999 teaches the cap (40) covers the brush head (12). See figure 1.

Claim 4: As shown in figure 1 of WO '999 the cap (40) is covers the brush head, which the distal end of the toothbrush handle.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown.

Brown teaches the toothbrush as described above but do not require the tubular shaped body to be integral with the toothbrush handle; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fabricated the tubular shaped body of Brown integrally with the toothbrush handle, since

it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. Howard v. Detroit Stove Works, 150 U.S. 164 (1883).

Claim 7: As shown in figure 1 the tubular shaped body of Brown is positioned near the distal end of the handle.

Claim Rejections - 35 USC § 103

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown as applied to claim 5 above further in view of Ridner, Sr (USP 2,620,550).

Brown is discussed above. Brown does not require the tubular shaped body to have an end cap covering the open end of the tubular shaped body; however, Ridner, Sr teaches a casing/housing (4) for a toothbrush body wherein one end of the casing/housing is provided with a cap for closing the end of the casing. See col. 3, lines 10-22.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a cap to the tubular shaped body of Brown in order to protect the toothbrush or the identification card housed in the tubular shaped body against soiling and preserve the brush in a sanitary manner.

Claim Rejections - 35 USC § 103

Claims 1, 5 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spieler et al (USP 5,502,861) in view of Brown.

Spieler et al teach a toothbrush (see figure 1) comprising a bifurcated handle that pivots between positions upon the application of force wherein the toothbrush

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comprises a first handle portion that terminates in a first hinge means and a second handle portion that terminates in a second hinge means which is complimentary to and interconnected with the first hinge means by a pivot. See col. 7, lines 29-37.

Spieler et al do not require an object housing configured to be attached to the toothbrush body; however, Brown teaches a toothbrush comprising a toothbrush body including a toothbrush handle (3) and a brush head (4) and a tubular shaped housing attached to the toothbrush handle and the tubular shaped object housing provides access into the tubular shaped housing wherein the user places a card bearing suitable characters or identification marks between the tubular shaped body (2) and the handle. See col. 2, lines 1-81 and figures 1 and 2. Brown teaches the tubular shaped housing is transparent. See col. 2, lines 91-96.

Since, Browns tubular shaped body is attachable and removable, It would have been obvious to one of ordinary skill in the art at the time the invention was made to have attached an object housing such as the tubular shaped body of Brown to one of the handles of the toothbrush disclosed in Spieler et al for inserting the desired object such as identification card between the tubular shaped body and the handle wherein the user have visual access to the object or identification card through the transparent portion of the tubular shaped body.

Claim 5: Spieler et al and Brown are discussed above, do not teach an object housing integrally formed with the toothbrush body; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fabricated the tubular shaped body of Brown integrally with the toothbrush handle of

Spieler et al, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. Howard v. Detroit Stove Works, 150 U.S. 164 (1983).

Claim 8: As discussed above, Spieler et al teach a toothbrush comprising a first handle and a second handle wherein the handles pivot relative to each other. Spieler et al do not require an object housing on one of the handles; however, since Brown's tubular shaped body is attachable and removable, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided an object housing such as the tubular shaped body of Brown to one of the handles of Spieler et al for inserting the desired object between the housing and the handle in order to achieve visual access to the object through the transparent portion of the housing.

Claim 9: Spieler et al do not require an object housing which covers a portion of the brush head; however, since the tubular shaped body/housing of Brown is attachable to and detachable from the brush handle, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned the tubular shaped body at a desired location including a portion of the brush head in order to cover the toothbrush head or place the desired object for visual access into the transparent tubular shaped body.

Claim Rejections - 35 USC § 102

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Brown.

Brown teaches a toothbrush comprising a toothbrush body including a toothbrush handle (3) and a brush head (4) and a tubular shaped object housing attached to the

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toothbrush handle and the tubular shaped housing provides access into the tubular shaped housing wherein the user places a card bearing suitable characters or identification marks between the tubular shaped body (2) and the handle. See col. 2, lines 1-81 and figures 1 and 2. Brown teaches the tubular shaped housing is transparent. See col. 2, lines 91-96.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in as applied to claim 10 above in view of Brady (USP 5622424).

Brown teaches the toothbrush as described above but does not require the tubular shaped body to have a convex portion; however, providing a housing having a convex portion for displaying an object is well known as shown by Brady. See col. 2, lines 21-30. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have provided a convex portion to the tubular shaped body of Brown so that the display portion of the tubular shaped body fully exposes and displays the object providing visual access.

Claim Rejections - 35 USC § 103

Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Brady as applied to claim 11 above and further in view of WO 00/70999.

Brown in view of Brady teach the toothbrush as described above but do not require the visual access structure covering the brush head; however, WO '999 teaches a toothbrush comprising a handle and a brush head (10) and a transparent cap/cover (40) covering the brush head wherein the ca/cover has an opening for providing access into the covering. See page 4, lines 8-10 and figures 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the transparent cap/cover disclosed in WO '999 on the brush head of Brown so that the cap provides a visual access to an object housed inside the cover or cap.

Claim Rejections - 35 USC § 102

Claims 10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by WO '999.

WO '999 teaches a toothbrush comprising a handle and a brush head (10) and a transparent cap/cover (40) covering the brush head wherein the ca/cover has an opening for providing access into the covering. See page 4, lines 8-10 and figures 1. The cap being transparent and covering the brush head provides visual access to the brush head. Thus, WO '999 meets the structural limitation of the claim.

Claim 12: WO '999 teaches the cap (40) is configured to cover the brush head.

Claim 13: As shown in figure the cap (40) is disposed near a distal end of the toothbrush handle.

Claim Rejections - 35 USC § 103

Claims 10 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spieler et al (USP 5502861) in view of Brown.

Spieler et al teach a toothbrush (see figure 1) comprising a bifurcated handle that pivots between positions upon the application of force wherein the toothbrush comprises a first handle portion that terminates in a first hinge means and a second handle portion that terminates in a second hinge means, which is complimentary to and interconnected with the first hinge means by a pivot. See col. 7, lines 29-37.

Spieler et al do not require an object housing configured to be attached to the toothbrush body; however, Brown teaches a toothbrush comprising a toothbrush body including a toothbrush handle (3) and a brush head (4) and a tubular shaped housing attached to the toothbrush handle and the tubular shaped housing provides access into the tubular shaped housing wherein the user places a card bearing suitable characters or identification marks between the tubular shaped body (2) and the handle. See col. 2, lines 1-81 and figures 1 and 2. Brown teaches the tubular shaped housing is transparent. See col. 2, lines 91-96.

Claim 14: As discussed above, Spieler et al teach a toothbrush comprising a first handle and a second handle wherein the handles pivot relative to each other. Spieler et al do not require an object housing on one of the handles; however, since Brown's tubular shaped body is attachable and removable, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided an object housing such as the tubular shaped body of Brown to one of the handles of Spieler et al

so that the user places the desired object between the housing and the handle in order to achieve visual access to the object through the transparent portion of the housing.

Claim 15: Spieler et al do not require an object housing which covers a portion of the brush head; however, since the tubular shaped body/housing of Brown is attachable to and detachable from the brush handle, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned the tubular shaped body at a desired location including a portion of the brush head in order to cover the toothbrush head or place the desired object for visual access into the transparent tubular shaped body.

Claim Rejections - 35 USC § 102

Claims 16-17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown.

Brown teaches a toothbrush comprising a toothbrush body including a toothbrush handle (3) and a brush head (4) and a tubular shaped housing attached to the toothbrush handle and the tubular shaped object housing provides access into the tubular shaped housing wherein the user places a card bearing suitable characters or identification marks between the tubular shaped body (2) and the handle. See col. 2, lines 1-81 and figures 1 and 2. Brown teaches the tubular shaped housing is transparent. See col. 2, lines 91-96.

Claim 17: Brown teaches the tubular shaped body is attachable and removable from the toothbrush handle. See col. 2, lines 62-70.

Claim 19: As shown in figure of Brown the tubular shaped body has an open end for receiving the object to be displayed.

Claim Rejections - 35 USC § 103

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown.

Brown teaches the toothbrush as described above but do not require the tubular shaped body to be integral with the toothbrush handle; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fabricated the tubular shaped body of Brown integrally with the toothbrush handle, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1983).

Claim Rejections - 35 USC § 103

Claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown as applied to claim 16 above further in view of Brady.

Brown teaches the toothbrush as described above but does not require the tubular shaped body to have a convex portion; however, providing a housing having a convex portion for displaying an object is well known as shown by Brady. See col. 2, lines 21-30. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have provided a convex portion to the tubular shaped body of Brown so that the display portion of the tubular shaped body fully exposes and displays the object providing visual access.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 4,396,238 teaches a transparent cover for a toothbrush head and US P 4,467,822 teaches a toothpaste and handle pivotally connected.

Response to Applicant's Arguments/Remarks

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abraham Bahta whose telephone number is (571) 272-1532. The examiner can normally be reached on Monday - Friday; 11:30 am - 8:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


A. Bahta
07/14/05


JOHN KIM
SUPERVISORY PATENT EXAMINER